

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

Case No. 2005-152

JENNIFER JOY PIETILA, R.N.
617 Cantara Lane
Vista, CA 92081

Registered Nurse License No. 680679

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 17, 2008.

It is so ORDERED APRIL 17, 2008.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
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8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Petition to Revoke Probation
13 Against:

14 JENNIFER JOY PIETILA, R.N.
15 617 Cantara Lane
Vista, CA 92081

16 Registered Nurse License No. 680679

17 Respondent.

Case No. 2005-152

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by Ron Espinoza, Deputy Attorney General.

26 2. Jennifer Joy Pietila, R.N. (Respondent) is representing herself in this
27 proceeding, and has chosen not to exercise her right to be represented by counsel.

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3. On or about June 14, 2006, the Board of Registered Nursing issued Registered Nurse License No. 680679 to Jennifer Joy Pietila. The license was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 2005-152, and will expire on July 31, 2008, unless renewed.

JURISDICTION

4. Petition to Revoke Probation No. 2005-152 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on October 2, 2007. Respondent timely filed her Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to Revoke Probation No. 2005-152 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Petition to Revoke Probation No. 2005-152. Respondent has also carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to be represented by legal counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Petition to Revoke Probation No. 2005-152, agrees that cause exists for discipline, and hereby
4 surrenders her Registered Nurse License No. 680679 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation, she enables the
6 Board to issue an order accepting the surrender of her Registered Nurse License without further
7 process.

8 CONTINGENCY

9 10. This stipulation shall be subject to approval by the Board of Registered
10 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
11 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
12 and surrender, without notice to or participation by Respondent. By signing the stipulation,
13 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
14 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
15 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall
16 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
17 between the parties, and the Board shall not be disqualified from further action by having
18 considered this matter.

19 11. The parties understand and agree that facsimile copies of this Stipulated
20 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
21 and effect as the originals.

22 12. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Board may, without further notice or formal proceeding, issue and enter the
24 following Order:

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 12-17-07

Jennifer Joy Pietila, R.N.
Jennifer Joy Pietila, R.N.
Respondent

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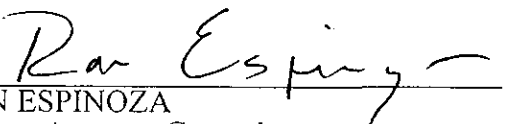
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 1-24-08

EDMUND G. BROWN JR., Attorney General
of the State of California

LINDA K. SCHNEIDER
Supervising Deputy Attorney General



RON ESPINOZA
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2007800954
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Exhibit A

Petition to Revoke Probation No. 2005-152

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER,
Supervising Deputy Attorney General
3 RONALD A. CASINO, State Bar No. 70410
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8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
13 Against:

Case No. 2005-152

14 JENNIFER JOY PIETILA, RN
617 Cantara Lane
15 Vista, Ca. 92083
Registered Nurse License No. 680679

**PETITION TO REVOKE
PROBATION**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Petition to
21 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
22 Registered Nursing, Department of Consumer Affairs.

23 2. On or about January 31, 2003, the Board of Registered Nursing (Board)
24 received an application for a Registered Nurse license from Jennifer Joy Pietila (Respondent).
25 On or about November 9, 2004, the Board denied the application. Respondent appealed the
26 denial, and Statement of Issues No. 2005-152 was filed.

27 3. Following a hearing in the Statement of Issues, Respondent's application
28 for licensure was granted, and she was subsequently issued Registered Nurse License No.

1 680679. However, the license was immediately revoked, the revocation was stayed, and
2 Respondent was placed on probation for three (3) years on various terms and conditions,
3 effective June 14, 2006.

4 4. The license will expire on July 31, 2008, unless renewed.

5 JURISDICTION

6 5. This Petition to Revoke Probation is brought before the Board under the
7 authority of the following laws.

8 6. Section 2750 of the Business and Professions Code (Code) provides, in
9 pertinent part, that the Board may discipline any licensee, including a licensee holding a
10 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
11 2750) of the Nursing Practice Act.

12 7. Section 118, subdivision (b), of the Code provides that the suspension/
13 expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to
14 proceed with a disciplinary action during the period within which the license may be renewed,
15 restored, reissued or reinstated. Section 2811 of the Code provides that a Registered Nurse
16 License may be renewed within eight (8) years of the date it lapses.

17 BACKGROUND

18 8. On or about January 31, 2003, the Board received an application for a
19 Registered Nurse license from Respondent. On or about November 9, 2004, the Board denied
20 the application.

21 9. The basis of the denial was a misdemeanor criminal conviction suffered by
22 Respondent on July 3, 2003 for a violation of Vehicle Code section 23152(b) (driving a vehicle
23 while having a blood alcohol level of 0.08% or greater). Respondent's blood alcohol level was
24 0.22%.

25 10. Respondent appealed the denial, and Statement of Issues No. 2005-152
26 was filed to litigate the validity of the denial.

27 11. Following a hearing in the Statement of Issues, the Board issued
28 Registered Nurse License No. 680679 to Respondent. However, the license was immediately

1 revoked, the revocation stayed, and Respondent was placed on probation for three (3) years on
2 various terms and conditions, effective June 14, 2006.

3 **VIOLATIONS OF PROBATION**

4 12. The terms and conditions of the probation which are specifically
5 applicable to this Petition to Revoke Probation are as follows:

6 a. **CONDITION NO. 1:**

7 **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A
8 full and detailed account of any and all violations of law shall be reported by the respondent to
9 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
10 compliance with this condition, respondent shall submit completed fingerprint forms and
11 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
12 as part of the licensure application process.

13 b. **CONDITION NO 2:**

14 **COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Respondent
15 shall fully comply with the conditions of the Probation Program established by the Board and
16 cooperate with representatives of the Board in its monitoring and investigation of the
17 respondent's compliance with the Board's Probation Program. Respondent shall inform the
18 Board in writing within no more than 15 days of any address change and shall at all times
19 maintain an active, current license status with the Board, including during any period of
20 suspension. Upon successful completion of probation, respondent's license shall be fully
21 restored.

22 c. **CONDITION NO 15:**

23 **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING)**

24 **DRUGS** - Respondent shall completely abstain from the possession, injection or consumption by
25 any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are
26 ordered by a health care professional legally authorized to do so as part of documented medical
27 treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by
28 the prescribing health professional, a report identifying the medication, dosage, the date the

1 medication was prescribed, the respondent's prognosis, the date the medication will no longer be
2 required, and the effect on the recovery plan, if appropriate.

3 Respondent shall identify for the Board a single physician, nurse practitioner or
4 physician assistant who shall be aware of petitioner's history of substance abuse and will
5 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
6 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
7 assistant shall report to the Board on a quarterly basis respondent's compliance with this
8 condition. If any substances considered addictive have been prescribed, the report shall identify a
9 program for the time limited use of any such substances.

10 The Board may require the single coordinating physician, nurse practitioner, or
11 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
12 addictive medicine.

13 d. **CONDITION NO. 16:**

14 **SUBMIT TO TESTS AND SAMPLES** - Respondent, at her expense, shall
15 participate in a random, biological fluid testing or a drug screening program which the Board
16 approves. The length of time and frequency will be subject to approval by the Board. The
17 respondent is responsible for keeping the Board informed of respondent's current telephone
18 number at all times. Respondent shall also ensure that messages may be left at the telephone
19 number when she is not available and ensure that reports are submitted directly by the testing
20 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
21 to the Board by the program and petitioner shall be considered in violation of probation.

22 In addition, respondent, at any time during the period of probation, shall fully
23 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
24 tests and samples as the Board or its representatives may require for the detection of alcohol,
25 narcotics, hypnotics, dangerous drugs, or other controlled substances.

26 If respondent has a positive drug screen for any substance not legally authorized
27 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
28 Board files a petition to revoke probation or an accusation, the Board may suspend respondent

1 from practice pending the final decision on the petition to revoke probation or the accusation.
2 This period of suspension will not apply to the reduction of this probationary period.

3 If respondent fails to participate in a random, biological fluid testing or drug
4 screening program within the specified time frame, the respondent shall immediately cease
5 practice and shall not resume practice until notified by the Board. After taking into account
6 documented evidence of mitigation, if the Board files a petition to revoke probation or an
7 accusation, the Board may suspend respondent from practice pending the final decision on the
8 petition to revoke probation or the accusation. This period of suspension will not apply to the
9 reduction of this probationary time period.

10 **FIRST CAUSE TO REVOKE PROBATION**
11 **(Failure to Provide a Full and Detailed Written Account of any**
12 **Violation of Law)**

13 13. Respondent's probation is subject to revocation under probation
14 conditions 1 and 2, in that Respondent failed to provide a full and detailed written account of her
15 arrest on July 3, 2007 on a charge of driving a motor vehicle under the influence of alcohol.

16 **SECOND CAUSE TO REVOKE PROBATION**
17 **(Failure to Abstain From the Use of Psychotropic Drugs)**

18 14. Respondent's probation is subject to revocation under probation
19 conditions 2 and 15, in that as a result of drug testing of Respondent pursuant to condition 16,
20 Respondent tested positive for alcohol on the following dates: November 30, 2006, January 17,
21 2007, and February 1, 2007. Any one of the above-stated positive tests is, in and of itself, a
22 sufficient basis for revocation of probation.

23 **THIRD CAUSE TO REVOKE PROBATION**
24 **(Failure to submit to Tests and Samples)**

25 15. Respondent's probation is subject to revocation under probation
26 conditions 2 and 16, in that Respondent failed to participate in a random, biological fluid testing
27 or drug screening program as follows:

28 a. Respondent failed to submit to random drug screening by failing to appear
for testing on April 13, 2007; April 25, 2007; May 11, 2007; May 21, 2007; May 31, 2007;

June 6, 2007; June 14, 2007; June 18, 2007; July 5, 2007; July 18, 2007; July 24, 2007; July 30, 2007; August 2, 2007; August 17, 2007; August 23, 2007; August 29, 2007; August 31, 2007; and September 4, 2007. Any one of the above-stated failures to appear for testing is, in and of itself, a sufficient basis for revocation of probation.

b. Respondent also failed to submit to random drug screening by failing to call in each day to determine if testing was required at that time, as follows: Respondent failed to call in on January 30, 2007; February 7, 2007; February 9, 2007; February 13, 2007; May 18, 2007; May 21, 2007; May 22, 2007; May 24, 2007; May 25, 2007; May 29, 2007; May 31, 2007; June 1, 2007; June 4, 2007; June 5, 2007; June 7, 2007; June 8, 2007; June 12, 2007; June 13, 2007; June 14, 2007; June 15, 2007; June 18, 2007; June 19, 2007; June 20, 2007; July 4, 2007; July 5, 2007; July 6, 2007; July 18, 2007; July 20, 2007; July 24, 2007; July 30, 2007; August 13, 2007; August 15, 2007; August 17, 2007; August 22, 2007; August 28, 2007; September 3, 2007; September 4, 2007; September 10, 2007; September 11, 2007; and September 12, 2007. Any one of the above-stated failures to call in for testing is, in and of itself, a sufficient basis for revocation of probation.

PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board in Case No. 2005-152 and imposing the disciplinary order that was stayed, thereby revoking Registered Nurse License No. 680679 issued to Jennifer Joy Pietila;

2. Revoking or suspending Registered Nurse License No. 680679 issued to Jennifer Joy Pietila; and

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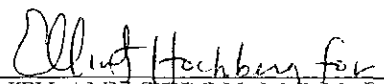
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/22/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JENNIFER JOY PIETILA
617 Cantara Lane
Vista, CA 92083

Respondent.

Case No. 2005-152

OAH No. L2005050354

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on **May 25, 2006.**

IT IS SO ORDERED **April 25, 2006.**



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

JENNIFER JOY PIETILA
617 Cantara Lane
Vista, CA 92083

Respondent.

Agency Case No. 2005-152

OAH No. L2005050354

PROPOSED DECISION

Alan R. Alvord, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on October 13, 2005, in San Diego, California.

James M. Ledakis, Deputy Attorney General, represented Complainant Ruth Ann Terry, M.P.H., R.N., Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, State of California (Board).

Respondent Jennifer Pietila represented herself and was present throughout the hearing. Gregory Earls assisted respondent.

Jurisdictional documents, documentary evidence and testimony were received. The parties requested and were granted additional time to submit closing arguments, responses and rebuttals in writing. The final closing argument was received and the matter was submitted on October 13, 2005.

FACTUAL FINDINGS

1. On January 31, 2003, the Board received respondent's application for a registered nurse license.
2. On May 4, 2003, respondent was involved in a two-vehicle automobile collision. She was driving under the influence of alcohol. On July 3, 2003, respondent pled guilty and was convicted of violating Vehicle Code section 23152, subdivision (b), a

misdeemeanor. She was ordered to pay \$1,800 in fines and restitution and was required to complete a DUI course. She has satisfied all conditions of probation and remains on probation until July 2006.

3. The facts and circumstances of the conviction were that respondent had been arguing with her husband and left to "clear her head." She consumed alcohol and drove her car. While trying to change lanes, she collided with another car. She left the scene of the collision and drove approximately three miles. The other driver involved in the collision followed her until she came to a stop. A police officer on the scene administered a field sobriety test and respondent was so intoxicated she fell down. Her blood alcohol concentration was found to be 0.22% by breathalyzer, more than twice the legal limit. The conviction and underlying conduct are substantially related to the qualifications, functions and duties of a registered nurse.

4. On November 9, 2004, the Board denied respondent's application based on the criminal conviction referenced above.

5. Respondent graduated from the University of Illinois with a BSN in 1988. She worked as a nurse for eight years. She became a mother and took a break from nursing. She placed her nursing license in Illinois on inactive status. She also holds an active nursing license in Arizona and applied for a license in California under the reciprocity program.

6. Respondent acknowledges her mistake in driving under the influence of alcohol. She has completed the six-month DUI class and a MADD course. She has attended at least 45 additional Alcoholics Anonymous meetings. She has voluntarily and continuously participated in psychotherapy with a clinical psychologist. She has developed support systems through family and church. She volunteers to teach Sunday school at her church. She is an active parent volunteer in her children's school.

7. Respondent presented several excellent letters of reference. She has completed the nurse's re-entry course through the University of California, San Diego and will be able to complete the clinical component of that course in the near future. Her letters of reference include her instructor at UCSD and nurses and physicians who have worked with her. The reference letters are specific and detailed. She has disclosed her licensing difficulties to many of the people who provided references.

8. Respondent has a compelling case of rehabilitation. She has taken steps well beyond those required by the criminal court, has come to terms with her conduct and her addiction and is actively working to foster and strengthen the support systems in her life. By all accounts she is a skilled nurse and a caring person. But her conviction is recent and she is still on criminal probation. It is appropriate under these circumstances to grant respondent a probationary license to ensure the maximum public protection.

LEGAL CONCLUSIONS

1. Business and Professions Code (Code) section 2736 requires an applicant for licensure as a nurse to “not be subject to denial of licensure under Code section 480.” Code section 480 provides the grounds for denial of a license application and includes conviction of a crime (Code § 480, subd. (a)(1)), any act which, if done by a licensee, would be grounds for discipline (Code § 480, subd. (a)(3)). Code section 2761, subdivision (f), authorizes disciplinary action based on conviction of a crime substantially related to the qualifications, functions, and duties of a registered nurse. Code section 2762, subdivision (b), defines unprofessional conduct to include using alcoholic beverages to an extent or in a manner dangerous or injurious to himself or any other person. Code section 2762, subdivision (c), defines unprofessional conduct to include being convicted of a criminal offense involving consumption of certain substances, including alcohol.

2. By reason of Factual Findings 2 through 8 and Legal Conclusion 1, cause is established to grant respondent’s application for a nursing license. However, under the circumstances of this case, cause is also established to place respondent on three years’ probation with certain terms and conditions, as set forth below.

ORDERS

The application of Jennifer Joy Pietila for a registered nurse license is granted. A license shall be granted upon completion of all licensing educational and testing requirements established by the Board. Upon issuance, the license shall be immediately revoked and the revocation stayed for three (3) years pending completion of the following terms and conditions:

1. **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

2. **COMPLY WITH THE BOARD’S PROBATION PROGRAM** - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent’s compliance with the Board’s Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension. Upon successful completion of probation, respondent’s license shall be fully restored.

3. **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE** - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state. Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives. Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for six consecutive months or as determined by the Board. For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any nondirect patient care position that requires licensure as a registered nurse. The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six consecutive months or as determined by the Board. If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS** - Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board. Respondent shall provide a copy of this

decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment. In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved. Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

9. EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool. Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required. Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis. Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved

continuing education program. Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity. If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE A NURSING COURSE(S) - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term. Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

11. VIOLATION OF PROBATION - If respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose revocation of the respondent's license. If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. LICENSE SURRENDER - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation. Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

13. PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse.

Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

14. PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Respondent, at his/her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Board recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added.

Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS** - Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment.

Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.

The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. **SUBMIT TO TESTS AND SAMPLES** - Respondent, at his/her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances. If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

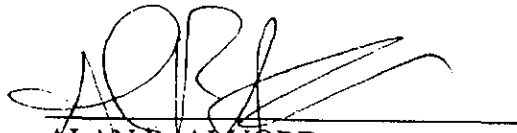
17. **MENTAL HEALTH EXAMINATION** - The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his/her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

18. THERAPY OR COUNSELING PROGRAM - Respondent, at his/her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: March 16, 2006



ALAN R. ALVORD
Administrative Law Judge
Office of Administrative Hearings

Served 3-3-05

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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

JENNIFER JOY PIETILA
617 Cantara Lane
Vista, CA 92083

OAH No.

Case No. 2005-152

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about January 31, 2003, the Board of Registered Nursing, Department of Consumer Affairs received an application for a Registered Nursing license from Jennifer Joy Pietila (Respondent). On or about January 13, 2003, Jennifer Joy Pietila certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on November 9, 2004.

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1 7. Section 2762 of the Code states:

2 In addition to other acts constituting unprofessional conduct within
3 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
4 conduct for a person licensed under this chapter to do any of the following:

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6 (b) Use any controlled substance as defined in Division 10
7 (commencing with Section 11000) of the Health and Safety Code, or any
8 dangerous drug or dangerous device as defined in Section 4022, or
9 alcoholic beverages, to an extent or in a manner dangerous or injurious to
10 himself or herself, any other person, or the public or to the extent that such
11 use impairs his or her ability to conduct with safety to the public the
12 practice authorized by his or her license.

13 (c) Be convicted of a criminal offense involving the prescription,
14 consumption, or self-administration of any of the substances described in
15 subdivisions (a) and (b) of this section, or the possession of, or
16 falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction
18 is conclusive evidence thereof.

19

20 **Summary of Alleged Facts:**

21 8. On January 13, 2003, Jennifer Joy Pietila, applied for a Registered Nursing
22 license with the California Board of Registered Nursing. The application was received and
23 processed. After submission of her application, Respondent was arrested on or about May 2003,
24 for causing an auto accident on Interstate 5 in San Diego County which resulted in property
25 damage. At the scene of the accident, respondent was charged with driving under the influence
26 of alcohol. On July 3, 2003, respondent entered into a plea agreement for driving under the
27 influence of alcohol with a blood alcohol reading of .22, which is more than double the legal
28 blood alcohol limit of .08.

 9. On July 3, 2003, Respondent's plea agreement for Driving Under the
 Influence of Alcohol in San Diego Superior Court Case Number CN 162708, in violation of
 Vehicle Code section 23152(b), a misdemeanor, became a final judgment. On November 9,
 2004, the Board denied respondent's Registered Nursing application.

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 (Conviction of Offense Substantially Related to Duties)

3 10. Respondent's application is subject to denial under section 2761(f) in that
4 she has been convicted of driving under the influence of alcohol which is substantially related to
5 the qualifications, functions and duties of a registered nurse as set forth in paragraphs 8 and 9.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 (Alcohol Consumption Affecting the Safety of Others)

8 11. Respondent's application is subject to denial under section 2762(b) in that
9 her conviction of driving under the influence of alcohol demonstrated the use of alcohol to the
10 extent that it was dangerous to herself or others as set forth in paragraphs 8 and 9.

11 **THIRD CAUSE FOR DENIAL OF APPLICATION**

12 (Conviction of Offense Involving Consumption of Alcohol)

13 12. Respondent's application is subject to denial under section 2762(c) in that
14 her conviction for driving under the influence involved the excessive consumption of alcohol as
15 set forth in paragraphs 8 and 9.

16 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

17 (Disqualification of Applicant)

18 13. Respondent's application is subject to denial under section 480(a)(1),
19 entitled Acts Disqualifying Applicant, in that she was convicted of driving under the influence as
20 set forth in paragraphs 8 and 9.

21 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

22 (Disqualification of Applicant)

23 14. Respondent's application is subject to denial under section 480(a)(3), in
24 that her act of and conviction for driving under the influence, if done by a licentiate of the Board
25 of Registered Nursing would be grounds for suspension or revocation of a license as set forth in
26 paragraphs 8 and 9.

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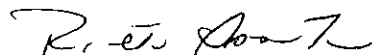
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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Denying the application of Jennifer Joy Pietila for a Registered Nursing
5 license;
6 2. Taking such other and further action as deemed necessary and proper.

7 DATED: 2/10/05
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10 
11 RUTH ANN TERRY, M.P.H., R.N.
12 Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
15 State of California
16 Complainant
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